Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Verizon Wireless Petition Pursuant to	)	WT Docket No. 01-184
47 U.S.C. § 160 for Partial Forbearance	)	
from the Commercial Mobile Radio	)	
Services Number Portability Obligation	)	

To: Chief, Wireless Telecommunications Bureau

REPLY COMMENTS OF WESTERN WIRELESS CORPORATION

Western Wireless Corporation ("Western") hereby replies to the comments filed in response to Verizon Wireless' petition seeking forbearance from enforcement of Section 52.31 of the Commission's rules, which requires Commercial Mobile Radio Service ("CMRS") carriers to support local number portability ("LNP") by November 24, 2002.[1] For the reasons discussed below, Western supports Verizon's petition and urges the Commission to permanently forbear from enforcing this requirement for all covered CMRS carriers.

Western is the leading provider of cellular service to rural areas in the western United States. As a cellular licensee in 88 RSAs and 18 MSAs, Western serves over 1 million conventional cellular customers and several thousand wireless local loop customers. The markets served by Western cover approximately 25 percent of the geography of the continental United States, making it the second largest wireless carrier in terms of geography served. In terms of population served, however, Western's markets cover approximately nine million people, making Western the 22nd largest wireless carrier. The vast majority of the company's service area has a population density of less than 2.9 people per square mile.

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1 Public Notice, *WTB Seeks Comment on Wireless LNP Forbearance Petition Filed by Verizon Wireless*, WT Docket No. 01-184, DA 01-1872 (Aug. 7, 2001).

As a provider of both conventional cellular and wireless local loop services, Western is uniquely positioned to comment on the relative unimportance of LNP for wireless-to-wireless or wireless-to-wireline competition. In addition, as a rural carrier with a relatively small subscriber base compared to its large service area, Western has serious concerns about the impact of the cost of implementing LNP on its ability to compete based on price. Western is also concerned that the practicalities of implementing wireless LNP will force Western to compete with rural wireline carriers that are not required to offer LNP.

I. LNP IS UNNECESSARY TO FURTHER COMPETITION

A. As the Most Significant Competitor to Wireline Carriers in Rural America, Western Does Not Believe LNP Is Needed for Wireless-to-Wireline Competition

While only local exchange carriers ("LECs") were statutorily required to provide LNP, the Commission extended this requirement to CMRS in order to advance competition.[2] Western is making significant inroads in competing against wireline service providers – without offering LNP. Through its wireless local loop ("WLL") offering and designation in numerous states as an Eligible Telecommunications Carrier ("ETC") for universal service purposes, Western has been able to offer basic local telephone service to numerous customers, many of whom had previously subscribed to the incumbent LEC ("ILEC") for service, or who have had no prior telephone service at all. For example, Western launched WLL in Regent, North Dakota in January 1999. The company quickly captured approximately 50 percent of the households in the community by increasing local calling areas, thereby saving residents substantial amounts of money. The LEC responded by expanding its local calling area, offering new long distance rates, and discounting

[2] *See Telephone Number Portability*, CC Docket No. 95-116, *First Report and Order*, 11 F.C.C.R. 8352 (1996), at ¶ 160 ("*First Report and Order*"); *Telephone Number Portability*, CC Docket No. 95-116, *First Memorandum Opinion and Order on Reconsideration*, 12 F.C.C.R. 7236 (1997), at ¶¶140-142.

Internet access.[3] Since that time, Western Wireless has received ETC designations in 13 states, and has launched universal service offerings in four of them.[4] The company has made great strides in launching universal service offerings over the past two and a half years and continues to gain market share with customers.

As stated earlier, many of Western's customers had never subscribed to telephone service before, in large part because they could not afford it.[5] For example, Western was recently designated an ETC for purposes of providing telephone service to Native Americans living on the Pine Ridge Indian Reservation in South Dakota, where there is a very low telephone penetration rate. Since Western introduced its service on the reservation in 1999, over 1,500 customers have signed up for service. Of these, approximately 42 percent never had telephone service before.[6]

Western was able to attract these customers by offering high-quality service at low rates; it did not need to offer LNP. In short, Western's wireless offerings compete directly against

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3 *See* Tom Wheeler, Bridging the Digital Divide: Wireless is Providing a Competitive Choice for Consumers in Rural America, America's Network, February 1, 2001, *available at* http://www.americasnewtorksupplements/20000201wi/wheeler.htm

4 By offering a service of significant value to consumers, Western has been able to achieve a high telephone penetration rate in its WLL markets without the benefit of LNP.

5 The price of extending telephone lines to rural areas can be prohibitive to residents, and has been reported to be as high as $55,000 for a single line. *See* Brenda Rios, A Quest for a Home Phone: Resident in Rural, Unassigned Zone Works on Starting His Own Company, Detroit Free Press, August 23, 2001 *available at* http://www.freep.com/money/business/phone23_20010823.htm.

6 *See Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota*, CC Docket No. 96-45, filed January 19, 2001, ("Pine Ridge Petition") at 26. The Commission has stated that it places a high priority on extending service to underserved areas. *See, e.g., In the Matter of Extending Wireless Telecommunications Services to Tribal Lands*, WT Docket No. 99-266, *Report and Order and Further Notice of Proposed Rulemaking,* 15 F.C.C.R. 11794, 11798, ¶¶ 8-9 (2000).

wireline providers for existing customers, resulting in increased telephone penetration rates in underserved and unserved areas of the country.

It is important to note that many of Western's rural ILEC competitors will not be required to implement LNP, as they operate outside the top 100 MSAs and are unlikely to have received a *bona fide* request.[7] As Verizon and several commenters have observed, all CMRS carriers – urban and rural alike – must implement Location Routing Number ("LRN") technology at the same time in order not to disrupt nationwide roaming. Thus, wireless LNP will result in an anomalous situation in rural areas in which CMRS carriers in a competitive market are subject to more stringent regulation than a monopoly provider – all in the name of "competition." This additional regulation and its associated costs will make it even more difficult for Western to compete with its wireline counterparts.

B. Competition Is Vibrant in the CMRS Marketplace

As confirmed by the majority of commenters, the strength of competition in the CMRS marketplace is beyond dispute.[8] According to the Commission's most recent reports on the state of competition in the CMRS industry, subscribership has increased from 55.3 million in 1997 to over 109 million in 2000, yielding a penetration rate of approximately 39 percent.[9] At the same time, the average price per minute for mobile telephone service has dropped from $0.54 in 1996

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7 *See* 47 C.F.R. § 2.23(c); *see also* Comments of Cingular Wireless at 19; Joint Comments of Voicestream Wireless Corporation and United States Cellular at 3.

8 *See* Joint Comments of Voicestream Wireless and United States Cellular at 6-7; Comments of Cingular at 6-7, 11; Comments of Sprint PCS at 4-6.

9 *See Sixth CMRS Report to Congress*, FCC 01-192 (July 17, 2001) ("*Sixth CMRS Competition Report*").

to $0.21, while the average minutes-of-use per month have climbed from 125 to 255.[10] Over 91 percent of the U.S. population can choose between three or more different service providers, and over 75 percent can choose between five or more providers.[11] As VoiceStream noted in its comments, "[t]he CMRS market is even more competitive today than it was in 1997 when the FCC first imposed the CMRS LNP rule and in 1999 when the FCC granted temporary forbearance of the rule."[12]

Given these statistics and an annual CMRS churn rate of approximately 20 percent,[13] there is no evidence to suggest that the inability of CMRS customers to port their numbers is an impediment to changing service providers.[14] As Verizon and commenting parties demonstrate, all of these factors support forbearance. Moreover, forbearance is consistent with the Commission's "ongoing obligation to monitor its regulatory programs and make adjustments in light of *actual experience*."[15]

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10 *Verizon Wireless' Petition Pursuant to 47 U.S.C. § 160 for Partial Forbearance from the Commercial Mobile Radio Service Number portability Obligation,* WT Docket No. 01-184, DA 01-1872, filed July 26, 2001, at 19.

11 *See Sixth CMRS Competition Report* at 6.

12 *See* Joint Comments of Voicestream Wireless and United States Cellular at 16.

13 *Sixth CMRS Competition Report* at 23.

14 It is interesting to note that, while most LECs have been subject to LNP obligations since 1998, CLEC market share is only 8.5 percent. Industry Analysis Division, Federal Communications Commission, *Local Telephone Competition: Status as of December 31, 2000* (May 2001) at 1. CMRS carriers have never offered LNP, yet competition is thriving in the CMRS industry. *See Sixth CMRS Competition Report* at 6 ("[T]he mobile telephony sector of CMRS has experienced another year of strong growth and competitive development."). Thus, it is important not to overemphasize the link between competition and the availability of LNP.

15 *Telocator Network of America v. FCC*, 691 F.2d 525, 550 n.191 (DC Cir. 1982).

II. Requiring Western to Deploy LNP Will Hinder Its Ability to Compete and to Comply with Other FCC Mandates

As discussed above, Western competes directly with other telephone service providers in the markets where it operates, regardless of whether those providers are CMRS carriers or LECs. One of the keys to Western's success has been its ability to provide high quality service at a low cost. Implementing LNP will disproportionately affect Western, which serves primarily sparsely-populated rural areas, because it does not have a large subscriber base to absorb the significant costs associated with LNP.[16] Thus, Western's per-customer costs will increase more than those of its competitors. Such cost increases will directly affect Western's ability to compete with larger CMRS carriers and LECs. Western's ability to compete depends upon its ability to offer affordable service. An increase in the cost of providing service, therefore, is of significant concern to Western.

Western also agrees with other commenters who note that implementation of LNP will require that resources be diverted from other priorities that are important to CMRS providers, their customers, and the Commission.[17] For example, Western is in the process of expending significant amounts of time and money to expand its service areas and convert to feature-rich digital service. At the same time, Western is devoting a lot of resources to comply with Commission mandates to implement complex technologies such as E911 and number pooling.[18]

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[16] Western estimates that these costs will exceed $6 million.

[17] *See* Verizon Petition, Appendix at 4; Comments of Sprint at 6; Comments of Cingular at 3.

[18] Since the Commission enacted the LNP requirement in 1996, it has become clear that CMRS carriers need not deploy LNP in order to participate fully in number pooling. *See* Verizon Petition at 9-10; Comments of Cingular at 15; Comments of Sprint at 7.

Diverting resources from these important priorities and Commission mandates to LNP, which offers few countervailing benefits to consumers, would be contrary to the public interest.

III. CONCLUSION

Requiring CMRS carriers to provide LNP would solve a problem that no longer exists and result in consequences that were never intended. The Commission originally imposed the requirement that CMRS carriers provide LNP in order to further competition. As discussed above, competition is vibrant in the CMRS marketplace without LNP. Rather than furthering competition, requiring Western to provide LNP will hinder its ability to compete and to comply with other FCC mandates. Thus, Western supports Verizon's petition and urges the Commission to permanently forbear from enforcing the LNP requirement for all covered CMRS carriers.

Respectfully submitted,

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